

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

JASON MICHAEL SMITH,

Plaintiff,

v.

FNU WRIGHT,

Defendant.

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Case No. CIV-24-482-J

ORDER

Plaintiff, a federal pretrial detainee appearing pro se and in forma pauperis, filed a Complaint under 42 U.S.C. § 1983 and *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) alleging a correctional officer directed a racial slur towards him. [Doc. No. 1]. The matter was referred for initial proceedings to United States Magistrate Judge Suzanne Mitchell consistent with 28 U.S.C. § 636(b)(1)(B), (C). Judge Mitchell screened the Complaint and issued a Report and Recommendation recommending dismissal without prejudice on grounds that (1) Plaintiff cannot state a valid claim for relief against a private correctional officer contracting with the federal government under § 1983, (2) *Bivens* has not been expanded to include a cause of action for racial slurs, and (3) even if Plaintiff could sue under either § 1983 or *Bivens*, the use of a racial slur, while inexcusable and offensive, does not amount to a constitutional violation. [Doc. No. 10]. Plaintiff did not object by his September 17, 2024 deadline and has therefore waived his right to appellate review of the factual and legal issues addressed in the Report and Recommendation. *See Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

Accordingly, the Court ADOPTS the Report and Recommendation [Doc. No. 10] and DISMISSES Plaintiff's Complaint without prejudice. A separate judgment will enter.

IT IS SO ORDERED this 9th day of October, 2024.



BERNARD M. JONES
UNITED STATES DISTRICT JUDGE